IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISIDICTION

WRIT PETITION NO.1365 OF 2006

Rukhmini Dhondiba Gaikwad .....Petitioners.

vs.

Radhabai Govindrao Yelgundi

and Ors. .....Respondents.

S.V.Sadavarte for the petitioners.

CORAM: S.C.DHARMADHIKARI, J.

DATED: 9th March, 2007.

P.C.

1. Heard Mr.Sadavarte for the petitioner.

2. Perused the impugned orders. In my view, the tentative and prima-facie finding rendered in the orders of the courts below, does not require interference in this court’s equitable and discretionary jurisdiction under Article 227

of the Constitution of India.

3. More so, when the application preferred by the Petitioner Plaintiff for challenging the decree is pending. The lower Appellate Court is right in concluding that as long as the decree passed in R.C.S. No. 262 of 2001 is held not to be binding upon the Petitioner Original Plaintiff, it cannot be stated that she has established any right in the property/portion thereto which is subject matter of the present suit.

4. This Court therefore cannot interfere with such concurrent findings at the prima-facie stage. Regular Civil Suit No. 1605 of 2002 is pending. Similarly, the present Regular Civil Suit No. 1932 of 2004 is also pending. As and when the petitioner is able to substantiate her claims in the proceedings challenging the compromise, it would be open for her to apply for appropriate reliefs including inter-locutory reliefs in these suits, if the same are not

disposed off. Similarly, the observations of the Trial Court and the lower Appellate Court would not in any manner preclude the Petitioner from pursuing her own proceedings so also the instant suit. Petition dismissed.

(S.C.Dharmadhikari, J)